

## The current state of the system of mechanisms of realisation and protection of the rights of the child: conceptual and legal aspects

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### ABSTRACT

The article is devoted to the analytical understanding of the problems in the field of realisation and protection of the rights of children in Russia to identify and highlight existing problems in order to try to remove shortcomings and embark on further development and improvement of the legal and social mechanisms for the protection of children's rights. It analyses the modern legal and conceptual aspects of the current system of implementation mechanisms for the protection of human rights, during which a number of shortcomings and gaps in family laws and the system of legal protection of minors are found. It identifies certain shortcomings and contradictions in the development of modern Russian legal theory and doctrine in the field of realisation and protection of the rights of the child, protection of motherhood and childhood in general. It explores specific aspects of relationships of family, school, society, human rights frameworks practical protection of the rights of the child and his or her right to live in a family. Scientific novelty and originality consists in identifying the main challenges and the importance of the family and family environment for socialization and upbringing of the child, for his or her moral and legal level of development, to create guarantees and protection of the rights of the child at home, at school, in the community as part of the mechanism of realisation and protection of the rights of the child. The proposal is made for the establishment of a protection of the rights of the child by bringing together all stakeholders on the direction and control of the Commissioner for children's rights in the territory of each constituent entity of the Russian Federation with a view to improving efficiency in the interaction of state and non-state structures of society in the protection of children's rights.

### KEYWORDS

Children's rights, family and family environment, human interaction, children's rights protection mechanism, Commissioner for children's rights institution, human rights regulation method, priority of the protection of children's rights and interests, legal culture, legal education.

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## 1. Introduction

*Humanity has to do its best for the child  
(The Preamble to the Declaration of the Rights of the Child. 1959)*

Today it is historically and reasonably topical to understand that children's rights have to be protected everywhere, however, people started developing, creating and implementing legal mechanisms of children's rights protection only in the 20<sup>th</sup> century. Since the future of the humanity is the children of today, who will have to ensure peace on earth by solving global problems, to be responsible for what is going on the planet, it is today that their rights must be exercised and properly protected, as they should develop in respective conditions as individuals. Rights and degrees of freedom that every child must have are usually called rights of children.

Topicality and significance of this problem is also conditioned by the fact that the Universal Declaration of Human Rights accepted by the United Nations organisation proclaims the idea that children have a right for special care and help, that family is the main social unit and natural environment for development and well-being of all its members, especially children, which requires the society and the government to create necessary mechanisms of protection and assistance for families, especially the ones with children. It is important to get into the idea that to be fully and harmoniously developed, a child needs to grow up in family environment, in the atmosphere of happiness, love and understanding, and we should also realise that a child must be fully prepared for independent life in the society and brought up according to the ideals of the United Nations Charter. It is of critical importance that a child lives and develops in the atmosphere of kindness, peace, dignity, tolerance, freedom, equality and solidarity, which is only possible in a friendly family, among near and dear ones.

## 2. Methodology

Special attention should be paid to the fact that at the present stage in the Russian Federation the **issues** of creating mechanisms of realisation and protection of the rights of children are considerably influenced by the concept of human rights elaborated as a result of long-continued development of international law of human rights.

Without prejudice, the beginning of the 20<sup>th</sup> century did not provide protection to children in the context of slavery, child labour exploitation, flourishing child trade, child prostitution, abuse on the part of parents and relatives, as well as certain economic exploitation. In some countries children still had no opportunity for exercising their rights (Dottridge, 2006; Hayes, 2002), which forced the League of Nations to adopt Geneva Declaration of the Rights of the Child in 1924.

The declaration of the rights of the child formed by Eglantyne Jebb was adopted on the 26<sup>th</sup> of November, 1924 by the Fifth Assembly of the League of Nations. It consisted of five main principles directed particularly against child labour and slavery, child trade and prostitution of minors. The Assembly encouraged its members to follow the clauses of the declaration in order to protect children and improve their well-being.

We examine the above-mentioned declaration as the initial main act attaching the principles of children's rights in international law documents and consider it the first document to attach children's rights, which, accordingly, defines its importance, as in modern conditions of society development it still acts as the basis for international and national legal standards in the field of children's rights protection. Exactly these legal principles are the basis of certain regulatory directions defining the interactions between different subjects, which ensures consistency and stability (Smirnov D.A., Strus K.A., 2015).

Paying a tribute to the United Nations organisation created in 1945, in 1948 UN General Assembly develops and adopts the second main document, generally recognised Universal Declaration of Human Rights, in which children are shown as the object of special care and help. UN adopts the Declaration of the Rights of the Child only in 1959.

The article analyses certain problems in the field of the development of theory and practice of realisation and protection of children's rights, and we draw attention to the fact that one of the problem was that during its development humanity did not immediately understand that a child is undoubtedly not the property of his or her parents or people replacing them, but a full-grown member of the society.

We analyse the text of the Declaration of the Rights of the Child adopted in 1959, which had declared ten social and legal principles, which, in their turn, were bound to have significant influence on politics and activity of governments and different state and non-state bodies; these programme theses called upon parents and individuals, state bodies on the whole, local authorities and governments, as well as non-government organisations to accept the rights and freedoms of the Declaration and ensure their observance in every possible way.

We also analyse an important problem of the word declaration (latin *Declaratio*) meaning proclamation, which, unfortunately, does not enjoin anything on anyone, as it has no binding force and is only a recommendation helping to understand the necessity of national legislation system.

Taking into account the main postulate in relation to a child, that is: the need for special care of a child, for upbringing in the atmosphere of peace, dignity, tolerance, freedom, equality and solidarity, specified in Geneva Declaration of the Rights of the Child of 1924 and the Declaration of the Rights of the Child adopted by the UN General Assembly on the 20<sup>th</sup> November, 1959, in the Universal Declaration of Human Rights, as well as in the United Nations Covenant on Civil and Political Rights (particularly in articles 23 and 24) and the International Covenant on Economic, Social and Cultural Rights (particularly in article 10), we are making an attempt to analyse reasons and factors influencing the development of national law in the field of human and children's rights, with respect to the impact of the system of various representations of legal theories and paradigms, which act as the basis of the development of branch legislation, including human rights legislation.

We are trying to define the methodology of the analysis of realisation of children's rights protection mechanisms; we are showing that it is necessary to study the practice of functioning of children's rights protection mechanism in the context of human rights protection in general. In view of the study of unity and interconnection between the methods of legal regulation, which, in its turn, is of interest both to the legislator and the executor, we bring to attention the fact

that human and the observance of their rights are, at the same time, the source and the target of the activity of all state and non-profit human rights structures on the whole.

We are trying to assess the necessity of the study of human rights protection institutions as a method of legal regulation in order to bring human component into the legal category, which would fit in with the process of the formation of democratic grounds of humanistic development and creation of legal lifestyle of modern Russia.

The specified legal standards, legislation system and law enforcement will be considered in terms of the fact that in the present-day world there is a rather complex and multilevel system of realisation, assurance and protection of human rights and children's rights as well, with the unquestionable support of the United Nations organisation including institutions and organisations of various kinds and levels, which are dealing with the protection of rights and freedoms of people, citizens, children; taking into account the fact that among the functions of the General Assembly is a function directed at the organisation of studies and preparation of recommendations in order to assist the international collaboration in the field of creation and implementation of guarantees that human rights and main freedoms will be exercised; taking into account the fact that protection of children's rights has its own specific features within nationwide human rights protection, as there should be specialised institutions and mechanisms being available and used, since children's rights may be significantly threatened, because a child is not able to protect their rights on their own.

We will also try to pay attention to a number of issues preventing the mechanism of children's rights protection on the whole from effective functioning; to analyse the problem of the absence of inter-branch legislation, which could organise all the existing standards, institutions and bodies engaged in the realisation and protection of children's rights, with the assumption that the branch legislation itself is rather developed in a number of branches; to study practical experience of the realisation of children's rights and development of the institution of childhood in general.

### 3. Results

The present stage of restructuring legal frameworks of realisation and protection of human and children's rights, including Russia, started when the Constitution of the Russian Federation was adopted in 1993, which proclaimed for the first time that "man, his rights and freedoms shall be the supreme value", while "the recognition, observance and protection of human and civil rights and freedoms shall be an obligation of the State".

#### *3.1 Legal foundation of Russian legislation in the field of human rights protection*

From the above it follows that rights and freedoms of a person in Russia are not only accepted, but also secured in accordance with international principles and standards. Moreover, taking into account part 3 of article 17 of the Constitution of the Russian Federation, the realisation and protection of the above-mentioned rights and responsibilities cannot violate analogous rights and freedoms of other people. What is more important, the rights and freedoms

emerge from the moment of birth and then exist and sometimes are realized not of the government's will, which makes them inalienable and prevents from being illegally taken out by the government. That said, the government is given the role of creator and securer of guarantees and conditions for the realisation of human rights in general and rights and freedoms of minors in particular.

Before the Constitution of the Russian Federation of 1993 there was the Declaration of the Rights and Liberties of Man and of the Citizen adopted by the Russian Federation in 1991, which is a highly important document, as it had established the main rights and freedoms and defined the guarantees required for their observance.

An independent institution in the field of government securing of the mechanism of human rights and freedoms protection, especially their respect and observance by state bodies, other bodies and public officers is the Commissioner for human rights in the Russian Federation, who takes on significance due to the fact that he or she is appointed or dismissed from the post by the State Duma of the Russian Federation, while legal foundation of his or her activity is secured by federal constitutional law "On the Commissioner for human rights in the Russian Federation" issued on the 25<sup>th</sup> February, 1997. Considering the federal structure of the Russian Federation, the above-mentioned institution is found in each constituent unit of the Russian Federation, where it works successfully, having found its place in the structure of the unit's authorities (Anisimova L.V., 2014).

Taking into account the fact that when exercising his or her power, an ombudsman in Russia is *independent from and unaccountable* to any state bodies or public officers, the Commissioner manages to contribute to the restoration of the violated rights, to take part in the improvement of the legislation in the named field, to develop international collaboration in the area of human rights, to provide active legal education on the issues of realisation, protection and prevention of violation of rights and freedoms of any person.

### 3.2 *Presidential Council on Civil Society Development and Human Rights*

A separate institution in the mechanism of human rights protection typical for Russia was the institution in the form of Civil Society Institutions and Human Rights Council, which was to become an advisory body under the President of the Russian Federation for providing help and collaboration to the head of the state in the process of realisation of constitutional powers of the President of the Russian Federation in the field of securing and protecting the rights and freedoms of any person.

The Council was established by the decree #1417 of the President of the Russian Federation issued on the 6<sup>th</sup> November, 2004 through the transformation of the Commission on Human Rights under the President of the Russian Federation, which had been functioning since the 1<sup>st</sup> November, 1993.

By the decree #120 "On the Presidential Council on Civil Society Development and Human Rights" issued on the 1<sup>st</sup> February, 2011 the *Civil Society Institutions* and Human Rights Council under the President of the Russian Federation was transformed into the Presidential Council on *Civil Society Development* and Human Rights. The above-mentioned decree also approved the Clause on the Presidential Council on Civil Society Development and Human Rights and defined its membership.

Despite the fact that the above-mentioned Presidential Council is a consultative body and was formed in order to assist the President of the Russian Federation in the process of the realisation of his constitutional powers in the field of creation of certain guarantees for the protection of rights and freedoms of man and citizen, however, it significantly contributes to the President's activity in the specified field informing the President of the Russian Federation about the state of affairs in the specified area and fully promotes the development of civil society institutions and resolves other issues within the competence of the Council.

It should not go unmentioned that the practice of functioning of the mechanism of human rights protection institution in any country is reasonable and constantly requires the study of this phenomenon in close connection and mutual influence of the method of its legal regulation on these relations, which is indicated by the interest and needs of both the legislator and the executor of law, while the main interested link in the above-mentioned studies is human-person-citizen-official, being the source and also the goal of the human rights work process.

Objective topicality of the research in the field of legal regulation of human rights protection in all countries, as well as the study of a number of problems and factors, which influence the realisation of the mechanism of human rights protection, oblige scientists, legislators, executors of law to combine legal matter with human potential, which indicates the level of democratic maturity and humanistic trend of legal lifestyle of contemporary Russia, since without relevant studies in the specified field there obstacles in the way of creation of the required mechanisms for the conditions of the priority of human rights in the Russian society.

### *3.3 Human rights for legal protection as a special form of human rights protection*

If we consider the concretisation of the *human right* for legal protection as a special form of human rights protection in the form of organisational and legal institution, then we understand that this institution must be provided with organisational and legal means and enforcement measures used in order to eliminate the obstacles on the way to the realisation of human rights, or restoration of violated rights together with the punishment for those guilty of violating them. This implies that the idea of human rights protection, presented as the right of a human for legal protection, is reasonably of multi-level nature and is interconnected with the nature of human rights themselves, each of which also shows that a person preserves their natural qualities and characteristics.

According to a number of authors, the immediate *right of a man for legal protection* must be perceived as a systemically important element of the whole institution of human rights protection and prove oneself out in the field of regulatory influence on different social relations.

That said, it is correct to raise a question of human rights regulation method, presented as the method of regulatory influence on human rights relations guaranteed by the government and international community, consisting in the specifics of distribution of human rights authority and corresponding legal obligations between the subjects of human rights relations.

In the whole world and in this country as well, apart from the mechanism of human rights protection in general, there is also a certain system of institution

for the realisation and protection of children's rights, where a special and significant position is given to the institution of the Commissioner for children's rights, which, as we hope, will become responsible for the realisation of rights protection mechanism for children of all ages and in all fields.

If we turn to articles 4, 19 and 33 of the Convention on the Rights of the Child (Convention on the Rights of the Child, 1989) based on the Universal Declaration of Human Rights, which proclaimed that *children have a right for special care and help*, and it provides different measures to protect a child from various threats and infringements, then we can mention successful development of different social programmes in order to provide the required support to children and their legal representatives, as well as legislative, administrative, educational and other measures.

It is fair to say that the need for such special protection of a child was not only provided by Geneva Declaration of the Rights of the Child of 1924 and the Declaration of the Rights of the Child adopted by the UN General Assembly on the 20<sup>th</sup> November, 1959, but also accepted in the Universal Declaration of Human Rights, as well as in the United Nations Covenant on Civil and Political Rights (particularly in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (particularly in article 10) and later in regulations and corresponding documents of specialised institutions and different international organisations dealing with the issues of children's well-being and protection of children's rights (Nguyen, 2013; Gibbons, 2015).

#### *3.4 Development of children's rights protection institution in Russia*

We draw attention to the fact that the Federal law #124-FZ "On fundamental guarantees of children's rights in the Russian Federation" issued on the 24<sup>th</sup> July, 1998 determined basic principles of state policy in the field of realisation and protection of children's rights, in particular: creation of the mechanism of support of the family in order to secure children's rights protection; allocation of responsibility of public officers and citizens for the violation of rights and legal interests of a child, as well as support of public associations and other organisations engaged in the protection of rights and legal interests of children.

Currently there is the institution of the Commissioner for children's rights operating in the Russian Federation and in separate constituent units of the Russian Federation, the main task of which is to exercise independent control over the observance of rights and legal interests of a minor citizen. Thus another additional mechanism allowing to secure children's rights protection is realised, both for each child whose rights are violated and for children as a whole. If we analyse the experience and results of the work of commissioners for children's rights, we can confirm that the problem of the violation of children's rights in our country is rather pressing.

Discussing the problems of the realisation of children's rights in the government, we cannot but mention article 56 of the Russian Family Code, which states that immediate protection of rights and legal interests of children must be carried out by *parents or people replacing them, who can be the following*: adoptive parents, guardians, custodians, foster parents, etc., while in other cases stipulated for by the Russian Family Code itself the protection is secured by guardianship authorities, public prosecutor's office or courts. If for some reason a child is left without parents' care and is staying in a fostering

institution or social protection institutions, his or her rights and interests must be protected by the administration of the above-mentioned institutions in accordance with article 147 of the Russian Family Code. If a child's rights and freedoms need to be protected, the above-mentioned people can turn to juridical instances in order to accommodate any disputes arising in the process of upbringing a child and to secure and protect his or her rights.

It is obvious that the content of legal frameworks and the development of legal doctrine in the field of children's rights protection is also influenced by research and analytical institutions conducting public political and legal expertise and monitoring, and materials relating to their activities cannot be analysed within one article.

In the authors' opinion, attention should be paid to the fact that the Preamble to the Convention on the Rights of the Child points out how important international collaboration is for the improvement of life conditions of children in all the countries on the whole and in certain countries in particular. A number of Russian scientists note that the problem of legal nature of human rights should be resolved in the view of unity of absolute natural rights of man with legally relevant properties of objective and subjective right, due to which it becomes possible to interpret human rights for legal protection as a legal matter, because exactly as such this right has such unique properties as *subjectivity, publicity, inalienability, etc.*, as well as equal legal effect for everyone and everywhere, security and availability of the power of international collaboration and each separate state.

We cannot but remind about a joint project titled *Protection of children in Europe and Russia* (Izdaniya i analiticheskiye materialy, 2008. Zashchita prav detey v Evrope i Rossii), which started in May, 2004 and the report on which was presented at the meeting of Social Strategy Coordination Board in June, 2008. There are also international acts protecting the rights of children in certain areas of social relations (Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, May 2000).

Considering the established mechanism of children's rights protection in the country at the federal level, at the level of constituent units of the federation and at the level of local self-government, we see that there is certain positive experience at all the levels, but there also a considerable number of complicated, debatable, unsolved or constantly arising new problem factors in the process of the realisation of children's rights protection during all the stages of their life activity.

#### 4. Discussion

According to the authors, among the most important, acute and painful problems of the contemporary society are the problems related to the realisation and protection of children's rights, since there are such shameful phenomena as orphanage, social orphanage, children's drug addiction, juvenile delinquents, homeless children in any contemporary society. The specified area of both social and legal relations is still not paid enough attention from legislative and executive authorities, although it is perfectly clear that such relations cannot emerge by themselves, they are recreated by adults: parents, tutors, teachers, public officers, etc. It is terrifying and shameful that close people, such as

parents and relatives, are only busy with their work, creation of material benefits, setting up home, purchasing expensive and prestigious phones, computers, houses, cars, yachts, etc., forgetting that they should be developing their child's personality all the time, that a child has to be taught and brought up, prepared for independent healthy and honest working life. Creating a personality, it is the *family* that creates the society of the future which cannot be improved without careful and kind attitude to any child in general. Why exactly family? Because every parent, teacher, public officer, doctor, artist, sportsman, etc., had their first socialization and continue to have it in the family, improving themselves, building relationships with parents and children, relatives and friends – all this through the *family*! The most important thing for the family in the process of person socialization is *human communication*, which Antoine de Saint-Exupery called “the only real luxury” (Antoine de Saint-Exupery, 1997).

We dare to assume that the Commissions on minor's affairs and protection of their rights, which already have certain experience of working with minors and difficult families, are quite able to become an effective tool of inter-branch cooperation in the field of realisation and protection of children's rights. Main lines of activities of the Commissions are stipulated for by the Federal law #120-FZ “On the basics of the system of prevention of neglect and delinquency of minors” issued on the 24<sup>th</sup> June, 1999.

A large field of activity for the commission on minor's affairs is coordination of the cooperation of executive authorities of the district, city, territory, region, local self-government authorities, education system authorities and different public organisations for the prevention of social orphanage and timely identification of children left without parents' care. It is important for the interference into a family, into a child's life to be very careful, delicate and seem like necessary help, not like punishment. The Commissions should not become a punitive agency, and this also applies to the field of educational institutions, human rights, legal and other structures; they should not take a child away from the family and send them to another family or foster home, but help their own family onto its feet again.

Thus, for instance, as a result of the conducted research and discussion of a number of problems on meetings, in 2010 the commission on minor's affairs of the Western Administrative Okrug of Moscow prepared and implemented the Regulations of inter-branch cooperation for identification of family disadvantages, organisation of work with families at social risk (difficult life situation), and also planned “priority lines of cooperation of all Okrug structures in the field of prevention of social orphanage among children and teenagers, protection of their rights and legal interests for purposes of more precise execution of the Regulations. An important condition of solving this task, and, as a result, reaching the goal of the Regulations, which is early identification of families in need of help and support and providing them with the required help, is education of the representatives of preventive system authorities and institutions. In order to make inter-branch cooperation of the district Commission on minor's affairs and protection of their rights more effective, meetings and educational workshops for specialists of preventive system authorities and institutions were organised” (Batyugina S.V., 2013). Such state of affairs should be considered a positive trend in the work of the commission which organises and involves medical, educational, sports, entertainment and other structures on the territory of its district. It should be mentioned that

according to the commission, its main goal is “to identify *families* in need of help and support and provide them with the required help as early as possible”.

There is a certain defect that there is no federal law on the commissions on minor’s affairs and at the federal level the activity and legal status of the commissions is legally regulated by Approximate statute on the commissions on minor’s affairs and protection of their rights approved by the Decree of the Government of the Russian Federation #995 issued on the 6<sup>th</sup> November, 2013. It follows that each constituent unit of the Russian Federation has to understand that effective, well-coordinated and professional work of the commission on minor’s affairs will depend on the quality of legislation of the constituent unit of the Russian Federation itself, while this quality in the considered field is still being developed and is far from perfect.

We have already mentioned the role and position of the institution of the Ombudsman of childhood or the Commissioner for children's rights which is new for Russia and the activity of which is not regulated by federal law (Likhter P.R., 2015), but it is possible that together with the Commission on minor’s affairs the Commissioner for children's rights can effectively organise the activity of many structures on particular territory of the constituent unit of the Russian Federation.

Beyond all doubt, an ombudsman, as any human rights defender, needs special character, special state of mind and soul for work, because they have no executive functions or powers of authority. Therefore, a human rights defender needs to be insistent, professional, confident in their rights, confident that they are doing what is right and necessary; for regions, authoritative, influential, self-righteous ombudsmen are a great power, as the authorities take their opinion, their position into account, they consider their recommendations and treat them as equal partners, and, as a result, it is a win for common people, it must be a win for people (Drozдова A.M., 2015).

Constantly discussing the arising problems, Russian scientists, legislators, public officers, human rights defenders and all those interested in the creation of precise mechanisms of children’s rights protection see the situation from different points of view.

Let us ask the following question: is the created and functioning legislation in the specified field enough? In Russia the legal source defining “main lines and tasks of state policy for the benefit of children and key mechanisms of its realisation based on generally acknowledged principles and standard of international law” is the Edict of the President of the Russian Federation #761 “On National action strategy for the benefit of children for 2012-2017” issued on the 1<sup>st</sup> June, 2012.

The above-mentioned Edict did not start from nothing, as before it, in 1995-2000, there was a National action plan for the benefit of children” in the Russian Federation. Since one of Russia’s national priorities is creating the system of securing happy and protected childhood, the National action strategy for the benefit of children until 2017 was developed and approved.

It should be considered a positive trend that Vladimir Putin, the President of the Russian Federation, has repeatedly voiced this problem in his Addresses to the Federal Assembly of the Russian Federation and set tasks for the development of modern and effective state policy in the field of childhood, which have already been reflected in such nation-wide documents as the Concept of long-term social and economic development of the Russian Federation until 2020

(Concept, 2008), the Concept of demographic policy of the Russian Federation until 2025 and also the Concept of state family policy in the Russian Federation until 2025 (Concept, 2014), the close study of which gives us hope that the situation in the specified field should improve in the nearest future.

By universal consent, a family is pillar of society and state and everything that happens in the society influences the family to a certain degree, while the family, in its turn, influences the development of the society through the personality, and for that reason, public officers must take into account a real-life situation in the constituent units of the Russian Federation and in the country in general to form effective family policy. Although it has always been so, it is especially true today that the well-being of a family is an obvious result of social transformations (Zdravomyslova O.M., 2008, Antonov A.I, 2007).

In this context there is an interesting position of leading scientific officer of the Institute of State and Law of the Russian Academy of Sciences, professor A.M. Nechaeva, Doctor of Law, who notes that “protection of children’s rights in modern Russia is one of the urgent problems caused by obvious ill-being related to minors in the society, as well as in the family. And it is difficult to say what has caused this ill-being and who is guilty of it in the first place, the state or the family. There is no doubt that both are guilty. And it is also evident that the proclaimed interest of the state to children is closely related to the indisputable fact of family losing its authority and family principles becoming weakened, when traditional protective functions of family fade away or become the opposite of what they were, transforming into a serious threat to immature personality of a child. In other words, there is every reason to believe that children are in danger. This circumstance obliges to move from slogans addressed to everyone, to individuals, as well as legal people, to legal instructions which are clearer in its meaning and content and are able to really help a child, if necessary” (Nechaeva A.M., 2004).

If the requirements of the United Nations convention of the rights of the child are formally fulfilled, then a number of articles should be moved into the national legislation, which does not mean much in practice. It is more correctly to say that over the past period of time there has been a radical turn in the assessment of ideas and principles, which existed up to a point, when family was not given due attention, its role was minimised and depreciated in every possible way, and it continued like that for a long time, which could not but have an impact on lives of several generations of people.

Over the past twenty years, according to article 38 of the Constitution of the Russian Federation, family has become an object of constitutional guarantee and protection in Russia, previously lost family values are now restored. For that reason, family legislation needs certain changes and additions to become an effective mechanism in the process of family rights protection and rights and interest of a child in family as well, which alone obliges the legislator to reconsider already created and functioning standard of family legislation on the basis of analysis and study of law enforcement practice materials in order to find the gaps, defects, errors and faults.

Today the meaning of the requirements to the family legislation can be inferred by new perceptions of the family, of its role in the development of a person, of parents, their rights and responsibilities, of the status of children in the family and outside it, of the rules of adoption, custody and guardianship, remembering about the children who, from force of circumstances, happened to

be outside the family, but who, still being children, are probably more in need of protection of their rights than those influenced by parents and family.

When a minor exercises his or her own rights or a right is being used as against the minor, one should always remember that the most important of them is probable the right of a child to live and be brought up in a family (section 2 of article 54 of the Family Code of the Russian Federation), especially when solving any problems which are sometimes related to family upbringing of a child of any age.

As an example, let us mention the following problem: the process of children's rights protection is associated at first with family law, directly with the Family Code of the Russian Federation; it covers the regulation of personal, non-property relations; property relations of all member of the family, including children of minority age; a special group of relations is usually connected with the form and procedure of placing children left without parents' care in a family, etc.

In our opinion, all the above-mentioned determines and creates the difficulty of children's rights protection, as in the process of protection one has to use legal standards of different branches, assuming that the family law itself is of comprehensive character, because it includes standards of substantive law, rules of administrative law and sometimes also civil procedure instructions.

Let us note that despite the fact that standards, which are usually considered private-law or public, it should be said that almost all family law standards related to the rights of minors are devoted to one goal – first-priority protection of a child's interests against all other members.

As for the topic of juvenile justice sufficiently discussed in Russia (Davydenko A.V., 2015), there is no unambiguous answer to the raised question, since some people think we should not adopt western experience, while others develop and launch pilot projects of administering justice towards children with a special composition of the court. But is there anything new about it? In Soviet times, thirty or forty years ago, cases with minors were "trusted" to be considered by the most experienced and skilled judges, who coped with their duties perfectly well.

Let us note that among practical problems there is also a concern of the government and the society about the growing number of families which are considered problem families, and the number of parents deprived of their parental rights due to non-fulfilment of their constitutional and human responsibilities to minors; too much aggression and abuse of their children of minority age, as well as involving children into illegal activities during antisocial actions. On average, 60-80 thousand children suffer from criminal acts every year; most of them through the fault of adults: parents and relatives, since most crimes against children are committed in the family and at school. Another terrible and deplorable fact is that children are brought up with such attitude and will form their own families on the same principles in the relationships with relatives and close people.

According to the authors, one of the most urgent problems in the system of children's rights protection is poor organisation of relations between intrastate authorities and organisations within the system of work with children, protection of the rights of minors, etc. Relevant law-enforcement authorities just watch the negative processes concerning children in the family and school for a

long time and do not interfere with the situation strictly following the instructions of their superiors.

The measures for detection and early prevention of crimes among minors are not effective enough today, although there is, of course, certain positive experience in a number of regions. We should also pay attention to the problem of proper response of kindergarten teachers, club coaches, pre-school and school teachers, paediatric physicians and medical workers in general when seeing the marks of beatings, scratches and other signs of influence on minors, and, what is also important, to absence of pupils at school, in kindergarten groups without reasonable excuse. Moreover, when communicating with parents of minors, the above-mentioned employees of different institutions, and even neighbours or strangers can politely note that the parents' attitude to their child is discreditable, although sometimes it is really difficult due to the lack of tactfulness and culture of both sides.

The authors of the article draw attention to the problem of the system of children's rights protection in Russia, which consists in the fact that the activity of children's rights protection institutions, considering modern views on juvenile justice, is aimed at the destruction of family and punishment of both parents and children. It should be noted that the report of the Commissioner for human rights of the Russian Federation for 2014 again mentioned that the only method of legal response of the state to a problem family is taking the child away from the family, which increases the number of children left without parents' care, but does not solve the problem of this family: everybody is suffering and everybody is punished, or sometimes parents are even glad that their child has been taken away or that they have been deprived of their parental rights. And how does such child feel, where and how does he or she live, who analyses the mentioned situation? Thus, removal of a child with the alleged purpose of protecting his or her rights does not perform its function, as it often does harm and moral injury, sometimes a long-term one (Bukshina S.V., 2014). Such mechanism needs to be closely analysed and studied by sociologists, psychologists, doctors, lawyers, teachers, judges and other experts in the field of the realisation of the rights of minors.

It would be wrong to keep silent about another Russian problem in the mechanism of children's rights protection, which is the lack of necessary culture of citizens and children appealing to the authorities responsible for protection of children's rights, as sometimes citizens and even relatives just do not know where, how and who to turn to in search of help to children or just inform about a growing conflict, about discreditable conduct of parents towards their children, not to mention children themselves. It is very important that representatives of the institutions where citizens address their messages, information or claims know how to communicate with claimants and assess the situation correctly in order to protect the rights of a child or children and maybe even harmonise conflicting parties.

We wish to draw your attention to the fact that children's rights protection is not only a task, but also a duty of all the society to develop intolerance to child abuse and create a mechanism of identification and prevention of such cases. All of us, the society and the government, must create favourable conditions for full development of tens of millions of children and teenagers, who were born and live in this country, so that they can be healthy, happy and respectable citizens of their country.

## 5. Conclusion

Creating the projection of legal characteristics on certain human rights and without excluding the human right for legal protection, in this article we are trying to approach the solution of the problem of legal nature of human rights in general and to understand the processes of standardization, security and protection of human rights at the state, as well as at the international level, which, in its turn, suggests that the existing legislation is a source of legal nature of human rights. Although not only the fact of attachment of human rights in objective rights allows discussing the legal nature of human rights, B.S. Abzeev, for instance, associates legal nature of human rights with subjective form of existence of human rights.

To be objective, we should admit that this fact also suggests that there is no generally recognised concept of the correlation of objective and subjective right in Russian science yet, or maybe legal theorist are not really interested in this issue, which is rather depressing.

The authors believe that the society and the state will have to overcome a great number of problems in the specified field, particularly: to legally confirm the legal status of a child in federal law; to prepare and adopt a unified regulatory legal act regulating the rights of a child and their protection; to strengthen the responsibility of people responsible for security of children's rights; to reconsider the government's concept in the field of activity of public officers and organisations for the protection of motherhood and childhood; to achieve efficient functioning of the institution of the Commissioner for the rights of children and children's ombudsman in each constituent unit of the Russian Federation; to develop a target program for the development of legal education system for both children and parents, the so-called teaching parents through children (Korea has such experience) in order to improve their legal awareness. In Russia there is some experience of creating, for example, children's public chamber where children can actively participate in solving and discussing children's problems of the society, invite public officers, different officials and public member to their meetings in order to draw attention to pending problems in the field of realisation and protection of children's rights, as well as legislators of constituent units of the Russian Federation, who could legally secure assured and reliable social and legal protection of children's rights.

According to the authors, all the above-mentioned will allow increasing the level of legal awareness and also successfully protect the rights of minors; to improve the culture of society in general considering that legal culture, being a part of general culture and reflecting legal reality, will gradually become the basis of the system of legal values and priority of human rights, as well as observance of legal interests and rights of a child.

In the following work the authors would like to conduct a comparative study of the correlation of legal regulation mechanism elements (legal standards, regulatory legal acts, legal relationships) and its connection to legal awareness and legal culture of legislators, law enforcement officials and common law-abiding citizens in theory and concepts of contemporary European and Asian scientists, as well as in the field of practical realisation and protection of children's rights.

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